

3432.770

(2) Contract number and expiration date.

(3) Contract items and amounts that will exceed the estimated cost of the contract or the limit of the funds allotted.

(4) The elements of cost that changed from the original estimate (for example: labor, material, travel, overhead), furnished in the following format:

- (i) Original estimate.
- (ii) Costs incurred to date.
- (iii) Estimated cost to completion.
- (iv) Revised estimate.
- (v) Amount of adjustment.

(5) The factors responsible for the increase, such as error in estimate or changed conditions.

(6) The latest date by which funds must be available to the contractor to avoid delays in performance, work stoppage, or other impairments.

(b) A fixed fee provided in a contract may not be changed if a cost overrun is funded. Changes in a fixed fee may be made only to reflect changes in the scope of work that justify an increase or decrease in the fee.

3432.770 Prohibition against the use of ED funds to influence legislation or appropriations.

The contracting officer shall insert the clause at 3452.232-70, Prohibition Against the Use of ED Funds to Influence Legislation or Appropriations, in contracts with educational institutions, hospitals, and State and local governments. Contracts with commercial and nonprofit organizations shall be subject to the legislative lobbying prohibitions contained in FAR 31.205-22 and Office of Management and Budget Circular A-122, respectively.

3432.771 Provision for incremental funding.

The contracting officer shall insert the provision in 3452.232-71, Incremental Funding, in a solicitation if a cost-reimbursement contract using incremental funding is contemplated.

PART 3433—PROTESTS, DISPUTES, AND APPEALS

Subpart 3433.1—Protests

Sec.

3433.101 Definitions.

48 CFR Ch. 34 (10-1-10 Edition)

3433.103 Protests to the agency.

Subpart 3433.2—Disputes and Appeals

3433.203 Applicability.

3433.212 Contracting officer's duties upon appeal.

3433.214 Contract clause.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 53 FR 19124, May 26, 1988, unless otherwise noted.

Subpart 3433.1—Protests

3433.101 Definitions.

Filed, as used in this subpart, means that a document has been received by the contracting officer, the General Accounting Office (GAO), or the General Services Administration Board of Contract Appeals (GSBCA).

3433.103 Protests to the agency.

(a)(1) Protests to ED based on alleged improprieties in any type of solicitation that are apparent before bid opening or the closing date for receipt of proposals, must be filed before bid opening or the closing date for receipt of proposals. In the case of negotiated acquisitions, protests based on alleged improprieties that do not exist in the initial solicitation, but that are added later, must be filed not later than the next closing date for receipt of proposals following the addition. In other cases, protests to ED must be filed not later than ten (10) Federal Government working days after a basis for protest is known or should have been known, whichever is earlier.

(b) With the concurrence of the HCA, the contracting officer is authorized to make a determination, using the criteria in FAR 33.103(a), to award a contract before resolution of a protest.

Subpart 3433.2—Disputes and Appeals

3433.203 Applicability.

The General Services Administration Board of Contract Appeals (GSBCA) is designated to hear any appeal from a final decision of a contracting officer issued pursuant to the "Disputes" clause in a contract. The rules and regulations of the GSBCA are in 48 CFR